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**U.S. Citizenship  
and Immigration  
Services**

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FILE:

LIN-02-035-53417

Office: NEBRASKA SERVICE CENTER

DATE **AUG 03 2004**

IN RE:

Petitioner:

Beneficiary:

PETITION:

Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Robert P. Wiemann*  
fo

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a wholesaler and retailer of oriental rugs. It seeks to employ the beneficiary permanently in the United States as a buyer and importer of oriental rugs. As required by statute, the petition is accompanied by an individual labor certification, the Application for Alien Employment Certification (Form ETA 750), approved by the Department of Labor. The director determined that the beneficiary did not have the experience specified on the labor certification.

On appeal, counsel submits additional evidence.

Section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

The issue to be considered in this proceeding is whether the beneficiary has all the training, education, and experience specified on the labor certification as of the petition's priority date. *Matter of Wing's Tea House*, 16 I&N Dec. 158 (Act. Reg. Comm. 1977). Here, the petition's filing date is April 19, 2001.

The Application for Alien Employment Certification (Form ETA 750) indicated that in order to perform the duties of the position, the beneficiary must possess two years of experience in the job offered or in a related occupation.

The director determined that the petitioner had not shown that the beneficiary possessed the requisite experience in the job offered because the information provided did not specify the dates of employment or sufficient data regarding the experience acquired.

On appeal, counsel submits an employment letter from Izadyar Behzad, Orient-Teppiche Izadyar Behzad, St. Gallerstrasse, 53 CH 8645, [REDACTED] which affirms that the beneficiary has the requisite experience as an oriental rug specialist.

The record does not contain any derogatory evidence that would persuade Citizenship and Immigration Services (CIS) to doubt the credibility of the information contained in the letter from [REDACTED] or the supporting documentation. Therefore, the petitioner has demonstrated that the beneficiary has the requisite experience in the job proffered as of the petition's filing date.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

**ORDER:** The appeal is sustained. The petition is approved.